

Subpart J—Coordination of Part D Plans With Other Prescription Drug Coverage

§ 423.452 Scope.

This section sets forth the application of Part D rules to Part C plans; establishes waivers for MA-PD plans, employer-sponsored group prescription drug plans, cost plans, and PACE organizations; and establishes requirements for coordination of benefits with State Pharmaceutical Assistance Programs and other providers of prescription drug coverage.

§ 423.454 Definitions.

For purposes of this part, the following definitions apply—

Employer-sponsored group prescription drug plan means prescription drug coverage offered to retirees who are Part D eligible individuals under employment-based retiree health coverage (as defined in § 423.882) approved by CMS as a prescription drug plan.

State Pharmaceutical Assistance Program (SPAP) means a State program that meets the requirements described under § 423.464(e)(1).

§ 423.458 Application of Part D rules to certain Part D plans on and after January 1, 2006.

(a) *Relationship to Part C.* Except as otherwise provided in this Part, the requirements of this Part apply to prescription drug coverage provided by MA-PD plans offered by MA organizations beginning on or after January 1, 2006.

(b) *MA waiver.* CMS waives any provision of this Part otherwise applicable to MA-PD plans or MA organizations under paragraph (a) of this section to the extent CMS determines that the provision duplicates, or is in conflict with, provisions otherwise applicable to the MA organizations or MA-PD plans under Part C of Medicare, or as may be necessary in order to improve coordination of this part with the benefits under Part C.

(1) *Application of waiver.* Any waiver or modification granted by CMS under this section applies to any other similarly situated organization offering or seeking to offer a MA-PD plan that meets the conditions of the waiver.

(2) *Request for waivers.* Organizations offering or seeking to offer a MA-PD plan may request from CMS in writing—

(i) A waiver of those requirements under this part otherwise applicable to the MA-PD plan or MA organization under paragraph (a) of this section that are duplicative of, or that are in conflict with, provisions otherwise applicable to the MA-PD plan, proposed MA-PD plan, or a MA organization under Part C of Medicare.

(ii) A waiver of a requirement under this part otherwise applicable to the MA-PD plan or MA organization under paragraph (a) of this section, if such waiver improves coordination of benefits provided under Part C of Medicare with benefits under this Part.

(c) *Employer group waiver—(1) General rule.* CMS may waive or modify any requirement under this part that hinders the design of, the offering of, or the enrollment in an employer-sponsored group prescription drug plan, including authorizing the establishment of separate premium amounts for enrollees of the employer-sponsored group prescription drug plan and limitations on enrollment in such plan to Part D eligible individuals participating in the sponsor's employment-based retiree health coverage. Any entity seeking to offer, sponsor, or administer an employer-sponsored group prescription drug plan may request, in writing, a waiver or modification of additional requirements under this Part that hinder its design of, the offering of, or the enrollment in, such employer-sponsored group prescription drug plan.

(2) *Use of waiver.* Waivers or modifications approved by CMS under this section apply to any similarly situated entity seeking to offer, sponsor, or administer an employer-sponsored group prescription drug plan, meeting the conditions of the waiver or modification.

(d) *Other waivers.* CMS waives any provision of this Part as applied to a cost plan (as defined in § 417.401 of this chapter) or PACE organization (as defined in § 460.6 of this chapter) that offers qualified prescription drug coverage under Part D to the extent CMS determines that the provision duplicates, or is in conflict with, provisions